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Before the

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**Federal Communications Commission**

Washington, D.C. 20554

.....
In the Matter of the Application of)

GAF BROADCASTING COMPANY, INC.,)

For Renewal of License of Station)
WNCN (FM), New York, New York)
.....)

MM Docket No. 93-54

File No.
BRH-910201WL

To: The Review Board

PETITION FOR INTERVENTION

LISTENERS' GUILD, INC. (hereinafter "Guild"), by its attorney, David M. Rice, hereby respectfully petitions for intervention in the above-captioned hearing proceeding. Said proceeding, originally designated by *Hearing Designation Order*, 8 FCC Rcd 1742 (1993) ("HDO"), was terminated by Administrative Law Judge Joseph Chachkin by *Memorandum Opinion and Order*, released September 17, 1993 (FCC 93M-593) ("MO&O"). A timely *Notice of Appeal* to the Review Board from said MO&O was filed by the Guild on September 27, 1993, and the Guild's *Appeal* will be filed within the time prescribed by the Commission's Rules.

This petition is being filed simultaneously with a *Motion to Enlarge Issues* ("Motion"), which, as explained in the Affirmation of David M. Rice, Attachment A thereto, is being filed within 15 days from the time the facts upon which it is based were discovered by the Guild. See 47 C.F.R. § 1.229 (b) (3). The *Motion* and its accompanying Attachments are hereby incorporated by reference as if set forth in

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full herein. This petition and the *Motion* are addressed to the Review Board, since the issuance of the *MO&O* terminated the Presiding Officer's authority over the proceedings. See 47 C.F.R. § 1.267 (c).

The Review Board has previously denied an appeal by the Guild from a decision of the Presiding Officer denying a prior petition for intervention and motion to enlarge issues filed by the Guild following the issuance of the *HDO, GAF Broadcasting Company, Inc.*, FCC 93R-50 (released Sept. 13, 1993) (Rev. Bd.), and the Guild intends to file an Application for Review thereof within the time prescribed by the Commission's Rules. However, if the Board now grants the Guild's accompanying *Motion* and reopens the hearing to consider one or more of the new issues proposed by the Guild, the basis upon which the Board previously upheld the denial of "discretionary intervention under 47 CFR 1.223(b)" — i.e., that "none of the issues [the Guild] wished to address have been designated," *GAF Broadcasting Company, Inc.*, FCC 93R-50 (released Sept. 13, 1993) (Rev. Bd.), at para. 5. — would no longer be applicable.

Petitioner respectfully submits that the Guild's history of involvement in representing the rights of listeners of WNCN(FM),¹ and its long familiarity with the operation of WNCN and with the activities of its licensee, GAF Broadcasting, and the parent and principals thereof, make the Guild well qualified to assist the Commission, through participation as a party herein, in adducing evidence upon

1. The Guild is a not-for-profit corporation organized and existing under the laws of the State of New York, with an office at 881 Seventh Avenue, New York, NY 10019, whose members are listeners who reside in the areas of New York, New Jersey and Connecticut where the signal of station WNCN(FM) is heard. The nature of the Guild's interest in this proceeding and the history of the Guild's involvement in many prior proceedings involving WNCN and GAF are set forth in detail in the Guild's *Petition for Intervention* herein, filed April 19, 1993, at pp. 2-4 and in Exhibits A and B thereto. Said pleading and Exhibits are hereby incorporated by reference as if set forth in full herein.

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each of the proposed hearing issues raised in the Guild's accompanying *Motion to Enlarge Issues*. The participation of the Guild would be particularly appropriate in light of the dismissal of both of the competing applications originally designated for hearing. Accordingly, intervention herein is warranted pursuant to 47 C.F.R. § 1.223 (b).

CONCLUSION

In light of the foregoing, the Guild should be permitted to intervene as a party to the hearing on the above-captioned application and to participate fully in all subsequent proceedings herein.

Dated: October 8, 1993

Respectfully submitted,



David M. Rice
One Old Country Road
Carle Place, New York 11514
(516) 747-7979

Attorney for Listeners' Guild, Inc.

CERTIFICATE OF SERVICE

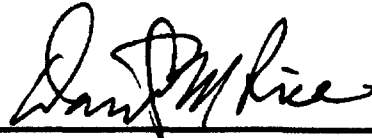
I, DAVID M. RICE, hereby certify that the foregoing "PETITION FOR INTERVENTION" was served this 8th day of October, 1993, by mailing a true copy thereof by United States first class mail, postage prepaid, to each of the following:

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A handwritten signature in cursive script, appearing to read "David M. Rice", is written over a horizontal line.

David M. Rice